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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,353	01/14/2004	Helmut Gegalski	1-23211	3328

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EXAMINER	
HONG, JOHN C	

ART UNIT	PAPER NUMBER
3726	

MAIL DATE	DELIVERY MODE
12/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/757,353	GEGALSKI ET AL.	
	Examiner	Art Unit	
	JOHN C. HONG	3726	

CT

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *31 October 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-11,15-18 and 23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *15 and 23* is/are allowed.

6)☒ Claim(s) *1-11,16-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/31/07 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-6 and 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP0452622.

'622 discloses : Regarding Claim(s) 1, A mounting device (1) for securing a control unit (18) to a vehicle comprising: a bracket outer supporting shell (3) formed from a non-resilient material that is adapted to be attached to a vehicle; and a layer of resilient material (5,6,7) disposed within and attached to the outer shell, the resilient material covering substantially the entire surface of the supporting shell that is adjacent to the control unit, the resilient material also adapted to be placed in proximity to the control unit whereby the resilient material absorbs noise and vibrations (Fig. 1; Abstract).

'622 fails to teach the bracket is one piece, but It would have been obvious matter of design choice to one of ordinary skill in the art at the time the invention was made to construct the apparatus of '622 with the one piece bracket, because Applicant has not disclosed that the one piece bracket provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the structure of the '622's apparatus because it would perform the function of a bracket without problem.

A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" **if the prior art apparatus teaches all the structural limitations** of the claim. Ex parte Masham, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987).

Regarding Claim(s) 2, '622 discloses, an inner supporting structure formed from a non resilient material that is attached to a surface of the layer of resilient material that is opposite from the outer supporting shell, the inner structure being adapted to be attached to the control unit (Fig. 1).

Regarding Claim(s) 3, '622 discloses, the resilient material is a polymer that is attached to the outer supporting shell and said inner supporting structure (Abstract).

Regarding Claim(s) 4, '622 discloses, the polymer is rubber and the outer supporting shell and said inner supporting structure are formed from steel (Abstract).

Regarding Claim(s) 5, '622 discloses, the layer of resilient material is adhesively bonded to the supporting shell and the inner supporting structure (Abstract).

Regarding Claim(s) 6, '622 discloses, the outer supporting shell and the inner supporting structure are generally U-shaped and form a bracket for securing the control unit to a vehicle (Fig. 1).

Regarding Claim(s) 8-11, '622 discloses, the resilient material is a polymer that is attached to the outer supporting shell and said inner supporting structure, the polymer is rubber and the outer supporting shell and said inner supporting structure are formed from steel, the layer of resilient material is adhesively bonded to the supporting shell and the inner supporting structure, and the outer supporting shell and the inner supporting structure are generally U-shaped and form a bracket for securing the control unit to a vehicle (Fig. 1; Abstract).

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over EP0452622 in view of AAPA(Applicant's Admitted Prior Art).

'622 teach the limitation except the control unit is an electronic control unit that is attached to a hydraulic valve body to form an electro-hydraulic control unit.

AAPA as disclosed in the specification section[4]-[7] , teaches the control unit is an electronic control unit that is attached to a hydraulic valve body to form an electro-hydraulic control unit.

It would have been obvious to one of ordinary skill in the art, at the time of the invention to utilize the device of '622 for installing control unit, as taught by AAPA so as to remove the vibration and noise.

Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA(Applicant's Admitted Prior Art) in view of Schaible et al. (U.S. Patent 6114950).

Regarding Claim(s) 16, AAPA as disclosed in the specification section[4]-[7], teaches a control unit assembly for a vehicle comprising: a control unit for controlling a vehicle system disposed in proximity to the layer of resilient material with the layer of resilient material forming an insulative barrier that separates the outer supporting bracket from the control unit to prevent any direct contact between the outer supporting structure and the control unit whereby the resilient material selected to absorb acoustic noise and vibrations.

AAPA fails to teach: a one piece bracket outer supporting shell formed from a non-resilient material that is adapted to be attached to a vehicle; and a layer of resilient material disposed within and attached to said outer bracket.

Schaible et al. teach: a one piece bracket outer supporting shell (110) formed from a non-resilient material that is adapted to be attached to a vehicle; and a layer of resilient material disposed within and attached to said outer bracket (col.4, lines 47-50).

It would have been obvious to one of ordinary skill in the art, at the time of the invention to utilize one piece bracket outer supporting shell formed from a non-resilient material that is adapted to be attached to a vehicle; and a layer of resilient material disposed within and attached to said outer bracket, as taught by Schaible et al. on the control unit of AAPA so as to absorb the vibration produced from the control unit.

Regarding Claim(s) 17, Schaible et al. teach an inner supporting structure (100) formed from a non- resilient material that is attached to a surface of the layer of resilient material that is opposite from the outer supporting shell, the inner supporting structure being attached to the control unit.

Regarding Claim(s) 18, AAPA teaches the control unit includes a hydraulic valve body attached to an electronic control unit to form an electro-hydraulic control unit.

Allowable Subject Matter

4. Claims 15 and 23 are allowed.

Response to Arguments

5. Applicant's arguments with respect to claims 1 and 16 have been considered but are moot in view of the new ground(s) of rejection. See the new Office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN C. HONG whose telephone number is 571-272-4529. The examiner can normally be reached on M-F 9:00-17:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, DAVID BRYANT can be reached on 571-272-4526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JOHN C HONG
Primary Examiner
Art Unit 3726

Jh
12/10/07